

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ERIC C. WOLF and
ROBERT WEISS,

Civil File No. 07-4934 (DWF/AJB)

Plaintiffs,

v.

REPORT AND RECOMMENDATION

CAROL HOLINKA, JOYCE ANDERSON,
JIM DEY, LINDA BRANDT,
K. PETERSON, P.A., and R. RIOS,

Defendants.

This matter is presently before the Court, on the Court's own initiative, for the purpose of determining whether Plaintiffs have complied with the last previous order in this matter, dated August 29, 2008, (Docket No. 61). That order required Plaintiffs to file an amended complaint in this case by no later than October 1, 2008. The order also informed Plaintiffs that if they did not file an amended complaint by that deadline, the Court would recommend that this action be summarily dismissed.

The deadline for filing an amended complaint, as required by the Court's last previous order, has now expired. To date, however, Plaintiffs have not filed any new pleading, nor have they offered any excuse for their failure to do so. Therefore, the Court will now recommend, in accordance with the order of August 29, 2008, that Plaintiffs be deemed to have abandoned this action, and that this action be summarily dismissed without prejudice for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) ("[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure

to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order"); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: October 15, 2008

s/ Arthur J. Boylan
ARTHUR J. BOYLAN
United States Magistrate Judge

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties, written objections which specifically identify the portions of the Report to which objections are made and the bases for each objection. This Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before October 29, 2008.